

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6573

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TALBERT WAYNE MORGAN, a/k/a Troy Edwards,
a/k/a Troy Edwards Townes,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Frank W. Bullock, Jr., Chief District Judge. (CR-91-221-G, CA-96-583-2)

Submitted: October 23, 1997

Decided: November 14, 1997

Before HAMILTON and WILLIAMS, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Talbert Wayne Morgan, Appellant Pro Se. Benjamin H. White, Jr., Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal the district court's order dismissing his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997). Appellant's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied and advised Appellant that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to object to the magistrate judge's recommendation.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). See generally Thomas v. Arn, 474 U.S. 140 (1985). Appellant has waived appellate review of the district court's order denying the 28 U.S.C. § 2255 motion by failing to file objections after receiving proper notice.

Appellant also appeals the district court's order denying Appellant's motion under Fed. R. Civ. P. 59(e) to reconsider the entry of judgment. We have reviewed the record and the district court's opinion denying the motion for reconsideration and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not aid the decisional process.

DISMISSED